

The Honorable Philip H. Brandt
Chapter 13

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

IN RE:

HENRI BARDON and CHRISTINE BARDON,
Debtor(s).

Bankruptcy No. 09-17012 PHB

Chapter 13

**DEBTORS' MOTION TO AVOID
LIEN UNDER 11 U.S.C. § 522(f)
WITH NOTICE OF HEARING AND
PROOF OF SERVICE**

PLEASE TAKE NOTICE that a hearing is set to consider Debtor's Motion to Avoid Lien under § 522(f) will be held on April 1, 2010.

JUDGE:	The Honorable Philip H. Brandt
PLACE:	United States Bankruptcy Court, 700 Stewart Street, Room 8106, Seattle, WA 98101
DATE:	April 1, 2010
TIME:	9:00 a.m.
RESPONSE DATE:	March 25, 2010

IF YOU OPPOSE THE MOTION, you must file your written response with the Court Clerk and deliver copies on the undersigned no later than the response date, which is **March 25, 2010**.

If no response is timely filed and served, the Court may, in its discretion, grant the motion prior to the hearing, without further notice, and strike the hearing. Objections not on file and served as set forth may be deemed waived.

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**DEBTORS' MOTION TO AVOID LIEN UNDER 11 U.S.C.
§ 522(F) WITH NOTICE OF HEARING AND PROOF OF
SERVICE - 1
(000032)**

SEATTLE DEBT LAW, LLC
705 2ND AVE, SUITE 501
SEATTLE, WASHINGTON 98104
telephone (206) 324-6677
fax (877) 562-5148

1 DATED this 24th day of February, 2010.
2
3

4
5 SEATTLE DEBT LAW, LLC
6

7 By: /s/ Christina Latta Henry
8 Christina Latta Henry, WSBA 31273
9

10 Motion
11

12 COMES NOW Henri Bardon and Christine Bardon, the Chapter 13 debtors
13 (“Debtor(s)”), by and through their attorneys, Christina Latta Henry and Seattle Debt Law, LLC,
14 and moves the court for an order pursuant to 11 U.S.C. §522(f) to avoid and cancel the judgment
15 lien held by California Bank & Trust (hereinafter “CBT”) on the real property used as the
16 Debtor’s residence.
17

18 A. **BACKGROUND.**
19

20 The Debtor filed a voluntary petition pursuant to Chapter 13 of title 11 the United States
21 Code on July 16, 2009. On February 4, 2008, prior to the bankruptcy filing, CBT obtained a
22 judgment in King County Superior Court (Case No. 07-2-21455-1SEA) on the real property known
23 as the Debtor’s residence located at 5047 84th Avenue S.E., Mercer Island, Washington 98040,
24 (hereinafter the “Residence”). It is unclear whether the judgment was recorded with the King
25 County auditor, but the judgment is clouding the title and may be impairing the Debtors’
26 exemptions. The said judicial lien is entered of record as follows:

27 **JUDGMENT**

28 Against: Henri J. Bardon and Jane Doe Bardon, husband and wife,
29 and their marital community, and Euro Asian Investment
30 Holding, Inc.
31 In favor of: California Bank & Trust
32 Amount: \$175,047.38, plus interest and/or costs
33 Entered: February 4, 2008
34 Judgment No. 07-2-21455-1
35 Superior Ct. Cause No. 07-2-21455-1
36

The Debtors' interest in the Residence located at 5047 84th Avenue S.E., Mercer Island, Washington 98040, encumbered by the above-referenced judgment lien, did not exceed \$125,000.00 in value at the time their bankruptcy petition was filed and their interest was claimed as fully exempt under 11 U.S.C. §522(d)(2) and 11 U.S.C. §522(d)(5).

B. ARGUMENT.

Under 11 U.S.C. §522(f), a debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption under RCW 6.13.030. Here, the existence of CBT's lien on the Debtors' Residence impairs an exemption to which the Debtors would otherwise be entitled under 11 U.S.C. §522(f).

C. PRAYER FOR RELIEF

WHEREFORE, Debtors prays for an order against CBT for the cancellation and avoidance of the judgment lien on their Residence and for such additional or alternative relief as may be just and proper.

DATED this 24th day of February, 2010.

SEATTLE DEBT LAW, LLC

By: /s/ Christina Latta Henry
Christina Latta Henry, WSBA #31273
Attorneys for the Debtors

PROOF OF SERVICE

I, Christine A. Turner, under penalty of perjury, declare that on the dates indicated below, I caused a copy of the following documents to be served on the parties listed below via United States First Class Mail and/or ECF:

Debtor's Note for Motion, Motion to Avoid Lien, Declaration of Counsel in Support of Motion and Proposed Order Granting Motion to Avoid Lien

Via ECF on February 24, 2010:

DEBTORS' MOTION TO AVOID LIEN UNDER 11 U.S.C.
§ 522(F) WITH NOTICE OF HEARING AND PROOF OF
SERVICE - 3
(000032)

SEATTLE DEBT LAW, LLC
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K. Michael Fitzgerald	courtmail@seattlech13.com
U.S. Trustee	<u>USTPRegion18.SE.ECF@usdoj.gov</u>
Bradley Boswell Jones	<u>bbjlaw301@hotmail.com</u>
Aaron C. Masser	<u>ecf@rcolegal.com</u>

Via United States First Class Certified Mail on February 24, 2009:

CSC – Lawyers Incorporating Service
Registered Agent for California Bank & Trust
2730 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Via United States First Class Mail on February 24th 2010 to the parties listed on the USBC

Matrix extracted from PACER and attached hereto as **Exhibit A**.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE
OF WASHINGTON THAT THE FOREGOING STATEMENT IS BOTH TRUE AND
CORRECT.

Executed this 24th day of February, 2010 at Seattle, Washington.

/s/ Christine A. Turner

**DEBTORS' MOTION TO AVOID LIEN UNDER 11 U.S.C.
§ 522(F) WITH NOTICE OF HEARING AND PROOF OF
SERVICE - 4
(000032)**

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Label Matrix for local noticing 0981-2 Case 09-17012-PHB Western District of Washington Seattle Wed Feb 24 08:39:51 PST 2010 American Express Bank, FSB POB 3001 Malvern, PA 19355-0701	AMERICAN INFOSOURCE LP AS AGENT FOR FIA CARD SERVICES, NA/BANK OF AMERICA PO Box 248809 Oklahoma City, OK 73124-8809	American Express c/o Becket and Lee PO Box 3001 Malvern, PA 19355-0701
	American Express Centurion Bank POB 3001 Malvern, PA 19355-0701	Bac / Fleet Bankcard PO Box 26012 Greensboro, NC 27420-6012
 Bank Of America Attn: Bankruptcy NC4-105-02-77 PO Box 26012 Greensboro, NC 27420-6012	Barclays Bank Delaware Attention: Customer Support Department PO Box 8833 Wilmington, DE 19899-8833	Christine Bardon 5047 84th Ave SE Mercer Island, WA 98040-4617
 Henri Bardon 5047 84th Ave SE Mercer Island, WA 98040-4617	Philip H. Brandt Seattle Tacoma 700 Stewart St, Rm 6301 Seattle, WA 98101-4441	CAPITAL ONE BANK (USA), N.A. C/O TSYS DEBT MANAGEMENT (TDM) PO BOX 5155 NORCROSS, GA 30091-5155
 CR Evergreen, LLC MS 550 PO Box 91121 Seattle, WA 98111-9221	California Bank & Trust PO Box 1507 Salt Lake City, UT 84110-1507	California Bank and Trust Routh Crabtree Olsen PS c/o James K Miersma 3535 Factoria Blvd SE #200 Bellevue, WA 98006-1263
 California Bank and Trust c/o Routh Crabtree Olsen PS 3535 Factoria Blvd SE, Ste 200 Bellevue, WA 98006-1263	Capital 1 Bank Attn: C/O TSYS Debt Management PO Box 5155 Norcross, GA 30091-5155	Chase Attention: Bankruptcy Department PO Box 15298 Wilmington, DE 19850-5298
 Citibank PO Box 6500 Sioux Falls, SD 57117-6500	Countrywide Home Lending Attention: Bankruptcy SV-314B PO Box 5170 Simi Valley, CA 93062-5170	DEPARTMENT STORES NATIONAL BANK/MACYS TSYS DEBT MGMT., INC. PO BOX 137 COLUMBUS, GA 31902-0137
 K Michael Fitzgerald 600 University St #2200 Seattle, WA 98101-4152	Gemb/payldc Po Box 981416 El Paso, TX 79998-1416	Christina Latta Henry Seattle Debt Law LLC 705 2nd Avenue Ste 1050 Seattle, WA 98104-1759
 Inland Revenue Authority of Singapore c/o Donald B. Walter, CPA Global Tax Help 444 NE Ravenna Blvd, Suite 206 Seattle, WA 98115-6467	LVNV Funding LLC Resurgent Capital Services PO Box 10587 Greenville, SC 29603-0587	Macy's Macy's Bankruptcy PO Box 8053 Mason, OH 45040-8053
 Aaron C Masser Routh Crabtree Olsen PS 3535 Factoria Blvd SE Ste 200 Bellevue, WA 98006-1263	Minor & James Medical, PLLC PO Box 3489 Seattle, WA 98114-3489	OPHRY'S, LLC C O WEINSTEIN AND RILEY, PS 2001 WESTERN AVENUE, STE 400 SEATTLE, WA 98121-3132

Exhibit A

PRA Receivables Management, LLC
As Agent Of Portfolio Recovery Assocs.
POB 41067
NORFOLK VA 23541-1067

Seattle Emergency Physicians, Inc
PO Box 34935
Seattle, WA 98124-1935

Seattle Radiologists APC
P.O. Box 509097
San Diego, CA 92150-9097

Swedish Hospital and Medical
747 Broadway Ave
Seattle, WA 98122-4307

United States Trustee
700 Stewart St Ste 5103
Seattle, WA 98101-4438

Wells Fargo
PO Box 60510
Los Angeles, CA 90060-0510

Wells Fargo Bank N A
PO Box 31557
Billings, MT 59107-1557

Wells Fargo Bank NA
PO Box 10438
Des Moines, IA 50306-0438

Wells Fargo Bank, N.A.
P. O. Box 14469 MAC X2303-01M
Des Moines, IA 50306-3469

Wells Fargo Card
PO Box 5058
Portland, OR 97208-5058

William T. Robinson, PLLC
14432 SE Eastgate Way, Ste 400
Bellevue, WA 98007-6493

eCAST Settlement Corporation, assignee
of Chase Bank USA, N.A.
POB 35480
Newark, NJ 07193-0001

End of Label Matrix
Mailable recipients 41
Bypassed recipients 0
Total 41